

REMARKS/ARGUMENTS

I. Introduction:

Claims 1, 21, 28, 30, 36, 37, 39, 53, 60, 61, 62, and 63 are amended herein, Claims 5, 6, 32, and 33 were previously canceled. Claims 1, 4, 7-31, and 34-63 are currently pending.

Applicants acknowledge the allowance of the subject matter of claims 21-24, 36-37, 39, 53, and 60-63.

Claim 21 has been amended to generally include the limitations of claims 1 and 20. Claims 36, 37, 39, and 53 have been amended to include the limitations of claim 30. Claims, 60, 61, and 62 have been amended to include the limitations of claim 58.

As amended, claims 21-24, 36-37, 39, 53, and 60-63 are believed to be in proper form for allowance.

II. Claim Rejections – 35 U.S.C. 102:

U.S. Patent Application Publication No. 2002/0124098 (Shaw) discloses a streaming media subscription mechanism for a content delivery network (CDN). A reflector network is used within the CDN to enable requesting end users to subscribe to live streams that have been published to CDN entry points. The reflector network includes a plurality of reflectors (router programs) which are located at each entry point to the CDN and other locations within the network. When an end user is directed to an edge node that is not yet receiving a desired stream, the edge node's manager issues a subscription request to a set of reflector nodes. If the reflector node is already receiving the desired stream, the reflector sends it to the requesting edge node. If the reflector node is not already receiving the desired stream, the manager

program issues a subscription request, which ultimately reaches the entry point to start the feed.

In rejecting claim 1 the Examiner refers to steps 502, 504, and 506 of the flowchart of Fig. 5 with respect to “receiving a list of measurement targets, associated configuration parameters, and schedule at the data acquisition agent”. As described at paragraph [0069] of Shaw, this process flowchart describes the operation of the subscription mechanism at a reflector. If a reflector is not already receiving a stream, a local submanager running on the reflector is informed of its subscription list, which specifies the requester and stream requested. At step 504, the submanager looks up which entry point has the requested stream. The submanager then sends a subscription message to the selected entry point to start the feed to the requesting reflector (step 506).

Even if, assuming for the sake of discussion, the subscription list of Shaw is somehow considered a list of measurement targets, there are no associated configuration parameters or schedule. The request for streaming media is sent directly to the entry point and is not sent based on a schedule.

Furthermore, Shaw does not disclose monitoring received streaming media, collecting performance measurements based on the received streaming media, or sending the collected performance measurements to a data collection server configured for collecting and storing data received a plurality of data acquisition agents.

In contrast to applicants’ invention, Shaw uses agents, separate from their reflectors, that perform various tests and monitor traffic conditions to identify Internet congestion problems. The reflector does not monitor received streaming media, collect performance measurements based on the received streaming media, or send collected performance measurements to a data collection server.

Applicants' invention, as set forth in the claims, is particularly advantageous in that it provides a method and system for simulating a session in which streaming media is broadcast over the network and performance is monitored to identify problem areas and compare performance with other streaming media sites.

Accordingly, claim 1 is submitted as not anticipated by Shaw.

Claims 2-4, 7-20, 25-27, and 54-57, depending either directly or indirectly from claim 1, are submitted as patentable for at least the same reasons as claim 1.

Claim 28 is directed to a computer program product and claim 30 is directed to a system for measuring streaming media over a network. Claims 28 and 30 are submitted as patentable for at least the reasons discussed above with respect to claim 1.

Claim 29 depending from claim 28, and claims 31, 34, 35, 38, and 40-52, depending either directly or indirectly from claim 30, are submitted as patentable for the same reasons as claims 28 and 30.

Claim 58 is directed to a method of measuring performance of streaming media over a network and requires, inter alia, receiving a list of measurement targets, associated configuration parameters, and a schedule file and sending a request for streaming media at a time specified in the schedule file. As previously discussed, Shaw does not disclose receiving a list of measurement targets, associated configuration parameters, and a schedule or sending a request for streaming media at a time specified in the schedule file.

Accordingly, claim 58, and claim 59 depending therefrom, are submitted as not anticipated by Shaw.

III. Conclusion:

For the foregoing reasons, Applicants believe that all of the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 399-5608.

Respectfully submitted,



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